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BOOK REVIEWS

A History of French Private Law. By Jean Brissaud, late Professor of Legal History in the University of Toulouse. Translated from the second French Edition by Rapelje Howell of the New York Bar. With Introductions by W. S. Holdsworth, Reader in English Law, St. John's College, Oxford, and John H. Wigmore, Professor of Law, Northwestern University. The Continental Legal Series, III, Little, Brown & Co. Boston, 1912. pp. xlvii, 921.

Great praise should be given the Editorial Committee of the Association of American Law Schools for making available in English Professor Brissaud's brilliant masterpiece of legal history. And it is good news that his entire history of French law, public as well as private, will ultimately be published in English; for there is no work in any language which surpasses it in richness of material and scope of historical knowledge.

Not only is Brissaud's breadth of learning most cosmopolitan, but it is displayed with true Gallic lucidity, conciseness, felicity of illustration, and charm of style.

He reveals, as perhaps no one has so successfully done since Savigny, the profound necessity and value of legal history. He furnishes abundant evidence that the office of historical research in law is what Maitland defined it, "as that of explaining, and therefore lightening the pressure that the past must exercise upon the present and the present upon the future".

No American lawyer who deeply loves his profession can read Brissaud's monumental work without a sigh of regret that the history of our own law is not yet written. There is a dearth of Anglo-American legal histories. We have only portions, like Pollock's and Maitland's and Holdsworth's history, and some monographs. Anglo-American legal history in its entirety has yet to be written, and can never be written as the history of French or German law has been written, until the isolation of our own law has been transformed into full connection with the world-current of jurisprudence. In other words American law must cease to

be provincial and must become cosmopolitan. The revivifying influence of Roman law—now rapidly increasing in America—cannot fail to expedite this transformation.

To the legal historian breadth of learning is essential. As Dr. Holdsworth says in his excellent *Introduction*, "The writer who would tell the tale of the legal development of any of the States of Western Europe must be able to compare and to contrast." Brissaud, as Prof. Wigmore points out in his *Editorial Prefatory Note*, makes a "catholic and cosmopolitan use of every source of authority wherever found". There is nothing provincial in Brissaud. In his treatment of the various topics of private law Brissaud does not confine himself exclusively to French sources: classical and Justinianic Roman law, medieval Roman law, Canon law, legal authorities from Italian, German, Austrian, Swiss, Dutch, and even English sources receive consideration.

Right here is Brissaud's work especially valuable to the student of Anglo-American law, for Brissaud frequently notices—often at length—features and rules of our own law as to personal and real property, contracts, wills and domestic relations.

Brissaud's method of writing legal history has been eminently successful in results. He employs the "vertical" or "topical" plan of separately tracing the development of each existing institution from early to modern times.

The Editorial Committee of the Association of American Law Schools took an unwarranted liberty with the text of Brissaud, when they prefixed as a preliminary chapter to this English translation of his private law history a chapter which in the French original served as an introduction to Brissaud's history of public law; such action is very censurable as evidencing a great lack of respect for an author's judgment in arranging his own book and material.

Mr. Howell, the translator, should be commended for his excellent work. His English version follows the French with scrupulous exactitude. It is also typographically a close counterpart of the French original.

The valuable map of the "Customary law in old France", which accompanies the present English translation, is taken from another

part of Brissaud's work, "The Sources of French Law" (not yet translated). Voltaire's gibe that in travelling through France one changed laws oftener than he did horses can be substantiated by a glance at this map. At one time prior to the Code Napoleon some 300 customs (*coutumes*) prevailed in France. But the fact that all this chaos of law was at last transformed into *one* uniform and *codified* law for all France should impart strength and encouragement to the advocates of the movement for one single uniform and codified private law for the United States—a gigantic but not impossible task.

C. P. S.

The Essentials of International Public Law. By Amos S. Hershey, Ph.D., Professor of Political Science and International Law in Indiana University. New York. The Macmillan Co. 1912. \$3.00 net. pp. vi, 558.

The modest title of this work scarcely prepares the reader for the singularly complete treatment of a great subject contained in its closely-packed pages. By means of a carefully carried out plan of relegating illustrative and explanatory matter to a series of voluminous notes, the author has admirably succeeded in the preparation of a text which is, in itself, a trustworthy statement of present-day international principles of action, while a student finds at the bottom of each page, as well as in the Table of Cases and List of Authorities placed at the beginning of the book, a guide to detailed study quite sufficient for the most exacting demands of the class-room or of private study. Such a plan necessarily excludes appendices which are often undeniably useful to have readily at hand, but which could not have been given here without an undue expansion of the volume's size. Some omissions of a few words in explanation of cited cases are, perhaps, inevitable in a book whose scope is distinctly limited. We miss, too, some familiar friends, such as *de Langchamps Case* (1 Dallas, 111), *Talbot v. Seeman* (1 Cranch, 1, etc.), *Triquet v. Bath* (3 Burrow, 1478), and in the difficult subject of *Real Unions* (pp. 102-103) something might be gained by a reference to Rivier, whose definition is singularly clear. But these are minor defects and cannot detract from the work's pronounced capacity for usefulness. Prof. Hershey is already favorably known to many through his